

separate document titled Statement of Uncontested Facts, which shall contain in separately numbered paragraphs all of the material facts upon which the moving party bases its motion and as to which it contends there is no genuine issue. This statement shall include references to the supporting affidavits or declarations and documents, if any, and to the 6101.4 appeal file exhibits relied upon to support such statement.

(3) An opposing party shall file with its opposition (or cross-motion) a separate document titled Statement of Genuine Issues. This document shall identify, by reference to specific paragraph numbers in the moving party's Statement of Uncontested Facts, those facts as to which the opposing party claims there is a genuine issue necessary to be litigated. An opposing party shall state the precise nature of its disagreement and give its version of the facts. This statement shall include references to the supporting affidavits or declarations and documents, if any, and to the 6101.4 appeal file exhibits that demonstrate the existence of a genuine dispute. An opposing party may also file a Statement of Uncontested Facts as to any relevant matters not covered by the moving party's statement.

(4) When a motion for summary relief is made and supported as provided in this section, an opposing party may not rest upon the mere allegations or denials of its pleadings, but the opposing party's response, by affidavits or as otherwise provided by this section, must set forth specific facts showing that there is a genuine issue of material fact. If the opposing party does not so respond, summary relief, if appropriate, shall be entered against that party. For good cause shown, if an opposing party cannot present facts essential to justify its opposition, the Board may defer ruling on the motion to permit affidavits to be obtained or depositions to be taken or other discovery to be conducted, or may make such other order as is just.

(h) *Effect of pending motion.* Except as this part and part 6102 provide or the Board may order, a pending motion shall not excuse the parties from proceeding with the case in accordance

with this part and part 6102 and the orders and directions of the Board.

6101.9 Election of hearing or record submission [Rule 109].

Each party shall inform the Board, in writing, whether it elects a hearing or submission of its case on the record pursuant to 6101.11. Such an election may be filed at any time unless a time for filing is prescribed by the Board. A party electing to submit its case on the record pursuant to 6101.11 may also elect to appear at a hearing solely to cross-examine any witness presented by the opposing party, provided that the Board is informed of that party's intention within 10 working days of its receipt of notice of the election of hearing by the other party. If a hearing is elected, the election should state where and when the electing party desires the hearing to be held and should explain the reasons for its choices. A hearing will be held if either party elects one. If a party's decision whether to elect a hearing is dependent upon the intentions of the other party, it shall consult with the other party before filing its election. If there is to be a hearing, it will be held at a time and place prescribed by the Board after consultation with the party or parties electing the hearing. The record submissions from a party that has elected to submit its case on the record shall be due as provided in 6101.11.

6101.10 Conferences; conference memorandum; prehearing order; prehearing and presubmission briefs [Rule 110].

(a) *Conferences.* The Board may convene the parties in conference, either by telephone or in person, for any purpose. The conference may be stenographically or electronically recorded, at the discretion of the Board. Matters to be considered and actions to be taken at a conference may include:

(1) Simplifying, clarifying, or severing the issues;

(2) Stipulations, admissions, agreements, and rulings to govern the admissibility of evidence, understandings on matters already of record, or other similar means of avoiding unnecessary proof;